

LETITIA JAMES
ATTORNEY GENERAL

STATE
OFFICE OF THE
ATTORNEY GENERAL



Plaintiff is directed to file a response to Defendants' September 25, 2023 letter (Doc. 31) by September 29, 2023.

The Court will hold an in-person discovery conference on the dispute described in Defendants' September 25, 2023 letter (Doc. 31) on October 4, 2023 at 12:30 p.m. in Courtroom 520 of the White Plains Courthouse.

Writer's Dir:

SO ORDERED.

A handwritten signature in black ink, appearing to read "P.M.H." or "Philip M. Halpern".

Philip M. Halpern
United States District Judge

Dated: White Plains, New York
September 25, 2023

VIA ECF

Hon. Philip M. Halpern
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601-4150

Re: Reese v. Williamson, et al., 22 CV 10494 (PMH)

Dear Judge Halpern:

I write on behalf of Defendants Robert Williamson, Steven Drapala, Richard Bodnar, Justin Friedlander, Clifford Donovan, Danny Lawrence, Joseph Burns, Robert Garcia, Michael Padgett, Glenroy Riley, and Andrew Milyko ("Defendants") to respectfully request that the Court issues an Order directing Plaintiff to either respond to all outstanding discovery by October 5, 2023 or advise the Court and this Office why he is unable to do so. Defendants have attempted to comply with Your Honor's Individual Practices, Local Civil Rule 37.2, and Federal Rule of Civil Procedure 37(a)(1), by sending Plaintiff the letters and emails described herein and attempting to meet-and-confer. However, because the issue at hand is Plaintiff's lack of response to Defendants, Defendants have had no choice but to submit this letter without Plaintiff's input.

On June 26, 2023, the Court issued its Civil Case Discovery Plan and Scheduling Order ("Scheduling Order"), which directed the parties to produce their Rule 26(a)(1) initial disclosures by July 10, 2023, and to conduct all non-expert depositions by October 17, 2023. (Dkt. No. 28).

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On June 26, 2023, Defendants served their Rule 26 Disclosures, in addition to their First Set of Requests for the Production of Documents and First Set of Interrogatories. *See Email from Defendants to Plaintiff Serving Disclosures and Requests, annexed hereto as Exhibit A.* Pursuant to Federal Rule of Civil Procedure 33(b)(2), Plaintiff was to serve his answers and objections within 30 days, or by July 24, 2023.

On July 24, 2023, Plaintiff served Defendants his First Request for Production of Documents and First Set of Interrogatories, but failed to respond to Defendants' discovery demands. *See Email from Plaintiff to Defendants Serving Disclosures and Requests, annexed hereto as Exhibit B.* Defendants followed up with Plaintiff's counsel by email on August 3, 2023, regarding Plaintiff's overdue answers and objections. *See Email from Defendants to Plaintiff Regarding Responses, annexed hereto as Exhibit C.* Later that day, Plaintiff asked Defendants to extend Plaintiff's response deadline to September 11, 2023, to which Defendants agreed. *Id.*

Thereafter, on August 23, 2023, Defendants served Plaintiff with their responses and objections to Plaintiffs' discovery demands. *See Email from Defendants to Plaintiff with Responses, annexed hereto as Exhibit D.* At that time, Defendants also requested that Plaintiff provide a date and time during which he could be deposed. *Id.*

On September 13, 2023, having not heard from Plaintiff at all regarding his responses to Defendants' discovery demands, nor having received Plaintiff's Rule 26(a)(1) initial disclosures, Defendants sent Plaintiff a deficiency letter, requesting that Plaintiff provide outstanding discovery by September 20, 2023. Defendants also noticed Plaintiff's deposition for October 13, 2023, in an attempt to keep discovery on track. *See Deficiency Letter and Notice of Deposition, attached herein as Exhibit E.* Defendants further alerted Plaintiff that should he not produce his outstanding discovery on or before September 20, 2023, Defendants would have no choice but to seek Court

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intervention. *Id.* On September 22, 2023, Defendants called Plaintiff's counsel's office in a final effort to avoid Court intervention. Defendants left a message with an individual at the firm requesting Plaintiff's outstanding discovery by close of business on that date, otherwise Defendants would file this letter with the Court on September 25, 2023. To date, Defendants have not received Plaintiff's Rule 26(a)(1) initial disclosures, nor his responses to Defendants' discovery requests. Moreover, Plaintiff has not indicated a need for additional time to provide these materials.

Pursuant to the Scheduling Order, depositions in this case must be completed by October 17, 2023. (Dkt. No. 28). By failing to produce any discovery in this case, Plaintiff has placed this deadline in doubt. As a result, it is respectfully requested that the Court issue an Order directing Plaintiff to either respond to all outstanding discovery and serve Rule 26 Initial Disclosures by October 5, 2023, or advise the Court and this Office why he is unable to do so.

Thank you for your consideration herein.

Respectfully submitted,

/s/ S. Cynthia Luo
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